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June 23, 2000

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FAX RECEIVED

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PETITIONS OFFICE

Re: Infringement of United States Patent No. 5,986,561

Dear Mr. McKay:

I have now completed my review of the M-4 production cars which you have alleged come within the scope of your clients' United States Patent No. 5,986,561.

The claims of the '561 patent are directed to an automatic door warning system which includes a panel having a visual display for textual messages, an audible alarm and a visual alarm. The '561 patent has an effective date of June 6, 1998, its filing date. The '561 patent is not entitled to the date of the earlier application since that application was abandoned before the application which eventuated into the '561 patent was filed. For purposes of my evaluation and conclusions, that fact makes no difference.

The door warning system used on the M-4 cars differs substantially from and does not infringe upon the claims of the '561 patent.

The M-4 cars include an audible speaker system with prerecorded messages and there is a visual flashing light. However, they are not mounted in a common panel nor is a message display activated by an instantaneous warning signal. The speakers are mounted in the ceiling for inside the car and others are mounted on the side of the car for outside of the car. The visual flashing light is mounted inside of the car on the doorway portal and is totally separate from any of the audible speakers. I am enclosing photographs of these various warning devices from an M-4 car in which I have marked the various speakers and flashing lights. I also have the assembly drawings of the M-4 car in my office if you care to see those. The audible speaker and the visual flashing light are not part of a common panel as required by the claims of the '561 patent.

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The M-4 cars include a message display panel which is not a part of any warning system as required by the '561 patent claims. The M-4 message display panel is a destination system advising the riders of the next destination or special announcement. It is located over a window and is totally separate from and operates independently of the audible speakers and visual flashing lights.

For all of these reasons, there clearly is no infringement of any claim of the '561 patent.

The audible speaker system and the flashing light system are required by the American Disabilities Act, see 49 C.F.R. § 538.73(c). This Act was promulgated in 1990. The use of electronic message boards with LED or "flip-dor" display for visual destination messages is part of the Code of Federal Regulations Title 49, Transportation, see the appendix on Public Information Systems. This was implemented with the ADA.

Adtranz has sold other train systems which include door warning systems with speakers and flashing lights and visual message systems before SEPTA and in compliance with these ADA requirements. These systems were in operation prior to June 6, 1997. Any effort to read the M-4 system on your clients' patent will render that patent invalid over these prior uses.

The speaker and flashing light door warning systems and the message display panel are called for in the SEPTA Technical Specification, which was a public document as of January 1992. Again, any attempt to read the '561 patent on the M-4 equipment would render such claims invalid over the SEPTA prior art specifications.

Finally, I understand that Mr. Kuruvilla is a SEPTA engineer/employee. I would assume he was aware of the ADA requirements and the SEPTA Technical Specification, both of which are public documents and prior art as to the '561 patent. I see no reference in the '561 patent or its file history that visual alarms, audible alarms and textual message display systems were already known and required for public transportation vehicles. This raises serious questions about the enforceability of the '561 patent particularly if one attempts to read claim 5 to cover any transit system that has a flashing light, an audible alarm and a visual display regardless of how they are used.

In my view, the examiner would not have allowed the application had this information regarding the ADA requirements and the SEPTA Technical Specification been available to him. References such as Fritz et al. U.S. Patent No. 4,855,723 teach a single

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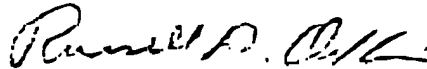
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panel alarm system with a siren, a stroboscopic light and a message display and the ADA and SEPTA specifications require these types of units on public transportation vehicles.

I trust this answers your inquiry. Since there is no infringement, there simply is no basis to discuss licensing. If you have any reason to believe that the facts I have presented to you are not correct or complete, I will certainly consider any other information you may have.

Very truly yours,



Russell D. Orkin

RDO/pjw  
Enclosures  
cc: Adtranz